

REMARKS

The above amendment with the following remarks is submitted to be fully responsive to the Office Action of April 27, 2005. Reconsideration of this application in light of the amendment and the allowance of this application are respectfully requested.

Initially, Claims 1-44 and 50-69 are rejected under the judicially created doctrine of double of obviousness type double patenting over claims 1-102 of U.S. Patent No. 6,638,781. In regard to this rejection, Applicants respectfully request that this rejection be held in abeyance until otherwise allowed claims are present in the instant application since claims could change during prosecution.

Claims 1-11, 15, 17-18, 23-33, and 39-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Hasegawa et al. (U.S. 5,499,128). This rejection is traversed for the reasons advanced below.

The Hasegawa et al. patent fails to teach or suggest each and every feature of the claimed invention. Specifically, the Examiner asserts that the feature “a radius R of curvature of said edge is 2 μ m or less” of the independent Claims 1 and 23 is disclosed in lines 43-51 of column 20, and Fig. 4 of Hasegawa, and that the radius R of curvature of said edge is expressed as formula (1).

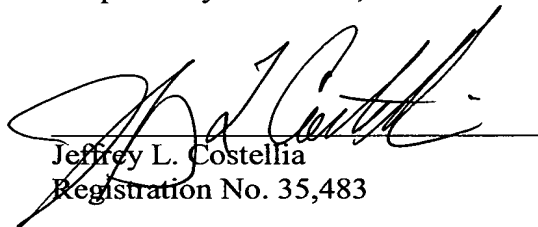
$$R = (L1 - L2) / 2 \quad (1).$$

Applicants contend that this reading of Hasegawa is not accurate. The radius R of curvature indicated by the Examiner is the radius R of curvature of the side surface of the columnar spacer 112a of Hasegawa. This is because, in the case of Fig. 4 of Hasegawa, the edge of the columnar spacer does not have the curvature, while the side surface of the columnar spacer have the curvature expressed by L1 and L2. A review of Figure 7 further emphasizes this interpretation since the edge of the spacer is not curved, as well as col. 21, lines 29-45 describing etching treatment in the central portions. Hence, Applicants contend that the radius R of curvature indicated by the Examiner should be clearly distinguished from “the radius R of curvature of said edge” of Claims 1 and 23. Consequently, claims 1 and 23, as well as the claims depending therefrom, should be considered allowable.

In view of the above-noted arguments, Applicant respectfully requests reconsideration and withdrawal of the rejections of record.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise which could be eliminated through discussions with Applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Respectfully submitted,



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